

Basic Principles of Partnership Law in Malaysia

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BASIC PRINCIPLES OF PARTNERSHIP LAW IN MALAYSIA

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CONTENTS

<i>Authors' Profile</i>	i
<i>Contents</i>	iii

CHAPTER 1

BUSINESS ORGANIZATIONS IN MALAYSIA

Zuhairah Ariff Abdul Ghadas

INTRODUCTION	1
SOLE PROPRIETORSHIP	1
The advantages of sole proprietorships	3
The disadvantages of sole proprietorships	3
PARTNERSHIPS	4
The advantages of partnerships	6
The disadvantages of partnerships	7
COMPANY	7
Types of Companies	7
Companies Limited by Shares	8
Companies Limited by Guarantee	9
Unlimited Companies	9
Foreign Companies	9
General attributes of companies	9
The advantages of companies	12
Disadvantages	13
CONCLUSION	13

CHAPTER 2

HISTORICAL PERSPECTIVES OF PARTNERSHIPS

Zuhairah Ariff Abdul Ghadas

INTRODUCTION	15
MALAYSIAN PARTNERSHIP LAWS	19
DEVELOPMENT OF PARTNERSHIPS LAW IN MALAYSIA	22

CHAPTER 3

REGISTRATION AND SALIENT FEATURES OF PARTNERSHIPS

Zuhairah Ariff Abdul Ghadas

INTRODUCTION	23
IDENTIFICATION OF INDIVIDUAL PARTNER WITH THE FIRM	23
Unlimited Personal Liability Of Each Other	27
Non-Transferability Of A Partner's Interest	27
Control By All Partners	28
NATURE AND ELEMENTS	30
Carrying On A Business	31
PERSONS CARRYING ON IN COMMON	34
With A View Of Profit	37
FORMALITIES AND REGISTRATION	40
COMPARISON WITH A COMPANY	42
Legal Entity	43
Limited Liability	44

CHAPTER 4

LIABILITY OF PARTNERS

Zuhairah Ariff Abdul Ghadas

INTRODUCTION	45
RELATIONSHIP OF PARTNERS WITH THE THIRD PARTIES	46
Limited partnership	59
LIABILITY OF PARTNERS FOR CONTRACTUAL DEBTS OF THE FIRM	60
LIABILITY FOR TORT AND OTHER WRONGS	61

CHAPTER 5

PROTECTION OF THE THIRD PARTIES AND PARTNERSHIP AGREEMENT

Zuhairah Ariff Abdul Ghadas

INTRODUCTION	69
Contractual debts	70
Debts Other Than Contractual	73
RELATIONSHIP BETWEEN PARTNERS	73
FIDUCIARY DUTIES	74
PARTNERSHIP AGREEMENT	78
Management And Control	78
Financial Affairs	79
Change Of Partners	81
Property Of The Firm	82

CHAPTER 6 PARTNERSHIP PROPERTY

Halyani Hassan

INTRODUCTION	85
EXISTENCE OF PARTNERSHIP PROPERTY	86
PROPERTY BROUGHT INTO PARTNERSHIP AS CAPITAL	86
TENANCY AS PARTNERSHIP PROPERTY	87
PROPERTY ACQUIRED AFTER THE FORMATION OF PARTNERSHIP	89
PROCEDURE AGAINST PARTNERSHIP PROPERTY	93

CHAPTER 7 DISSOLUTION OF PARTNERSHIP

Halyani Hassan

INTRODUCTION	95
CONTRACTUAL DISSOLUTION	95
PARTNERSHIP AT WILL	96
NOTICE OF DISSOLUTION	98
DISSOLUTION BY DEATH OR BANKRUPTCY	98
DISSOLUTION BY ILLEGALITY	99
DISSOLUTION BY COURT	100

CHAPTER 8 SHIRKAH

*Halyani Hassan & Mohammad Deen Mohd.
Napiah*

DEFINITION	105
SHIRKAH MUFAWADAH	106

SHIRKAH AL-INAN	106
ELEMENTS OF SHIRKAH	106
Number of person	107
Business	107
Formation	107
VIEW OF PROFIT	108
RIGHTS OF PARTNERS	109
FINANCIAL LIABILITY OF PARTNERS	113
DISSOLUTION OF SHIRKAH	114
RIGHT TO TERMINATE THE CONTRACT	114
CONTRACT FOR A FIXED PERIOD	114
DEATH TERMINATE PARTNERSHIP	115
VITIATION OF THE PARTNERSHIP	115

CHAPTER 9

LIMITED PARTNERSHIP IN MALAYSIA

Zuhairah Ariff Abdul Ghadas

INTRODUCTION	117
LABUAN-THE MALAYSIAN OFFSHORE	117
LABUAN OFFSHORE LIMITED PARTNERSHIPS	118
REGISTRATION	120
TYPE OF PARTNERS	122
LIABILITY OF PARTNERS	124
THE INTERNAL RELATION BETWEEN PARTNERS	125
TAX STATUS	126
DISSOLUTION OF THE LP	126
OBSERVATION	128

CHAPTER 10
LABUAN LIMITED LIABILITY PARTNERSHIP
Zuhairah Ariff Abdul Ghasas

INTRODUCTION	131
LABUAN- THE MALAYSIAN OFFSHORE	132
LIMITED LIABILITY PARTNERSHIPS	133
The Jersey LLPs	134
The Body Corporate LLP	136
LLPs with a partnership status	137
Observation	138
DIFFERENCES BETWEEN LIP AND A LIMITED	
LIABILITY COMPANY	139
DIFFERENCES BETWEEN LIP AND A PARTNERSHIP ...	140
LABUAN LIMITED LIABILITY PARTNERSHIPS (LLLP) ...	141
Legal attributes	141
Registration	142
Liability of partners	143
Internal Regulation	144
Dissolution	144
Taxation	145
Application of laws	146
CONCLUSION	146

CHAPTER 2

HISTORICAL PERSPECTIVES OF PARTNERSHIPS

Zuhairah Ariff Abdul Ghadas

INTRODUCTION

The history of partnership laws can be traced back to the medieval English law whereby in the trade guilds, it functioned as trade protection societies and fellowships for initiates. During that period, partnerships comprised both non-trading and trading associations. The trading partnerships existed in the forms of associations, called *commenda* and *societas*.¹ The latter is claimed to be the forerunner of modern general partnership whilst the former is acknowledged as the basis for limited partnership.² The *societas* was actually formed as an association of two or more persons trading under a firm's name.³ Every member had the capacity to represent others and to bind them under a firm's name.⁴ Each member shared a personal and unlimited liability to the creditors of the firm.⁵ Different from the *societas*, the *commenda* involved two types of partners, namely the passive and general partners.

¹ Keith L Fletcher, *The Law of Partnership in Australia and New Zealand*, (LBC Information Services, Sydney, 7th edition, 1996) at p 4.

² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*